

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

GOVERNMENT EMPLOYEES INSURANCE CO.,
GEICO INDEMNITY CO., GEICO GENERAL
INSURANCE COMPANY and
GEICO CASUALTY CO.,

NOTICE OF MOTION

Plaintiffs,

Docket No.: 1:19-cv-00728 (LJV)

-against-

MIKHAIL STRUT, M.D. a/k/a MIKHAIL
STRUTSOVSKIY, M.D., RES PHYSICAL
MEDICINE & REHABILITATION SERVICES, P.C.,
and CHERYLE HART, M.D.

Defendants.

PLEASE TAKE NOTICE that upon the accompanying Attorney Declaration of Robert E. Knoer, Esq. supporting Memorandum of Law, and Exhibits A through H, Defendants MIKHAIL STRUT, M.D. a/k/a MIKHAIL STRUTSOVSKIY, M.D., RES PHYSICAL MEDICINE & REHABILITATION SERVICES, P.C., and CHERYLE HART, M.D. by and through his/her/their attorneys The Knoer Group, PLLC, respectfully move this Court at United States District Court, 2 Niagara Square, Buffalo, New York, on a date to be determined by the Court, for an Order:

- a. Directing Plaintiffs to fully respond to all interrogatories, including any interrogatories previously objected to as “contention interrogatories”;
- b. Directing Plaintiffs to provide written responses to Dr. Hart’s Interrogatories Nos. 2, 3, 6, 7, 12, and 13 and RES’s Interrogatories Nos. 12, 12, 22, and 24;
- c. Directing Plaintiffs to provide written responses to Dr. Hart’s Interrogatories Nos. 4, 5, 8, 9, 12, and 13, Dr. Strut’s Interrogatories Nos. 1, 2, 3, 4, 5, 6, and 7, and RES’s Interrogatory No. 13 identifying all responsive GEICO employees and any responsive contractors

employed prior to GEICO's determination of fraud;

- d. Directing Plaintiffs to produce any documents that were withheld in response to Defendants' Requests for Documents Nos. 2, 3, 4, 5, 6, 7, 8, 14, 15, and 16 on the basis of expert privilege which were created prior to GEICO's determination of fraud, created in the ordinary course of business or pursuant to statutory or regulatory requirements, and/or created by non-attorneys not exclusively and in specific response to imminent litigation, and, if no documents responsive to any or all of the referenced requests exist, directing Plaintiffs to supplement their written responses to affirmatively state that no responsive documents exist;
- e. Directing Plaintiffs to provide full and proper responses to Dr. Hart's Interrogatories Nos. 1, 5, 10 and 13 and RES's Interrogatories Nos. 2, 4, 7, 9, 11, 12, 22, and 24 which reflect actual specific inquiry and do not merely restate allegations as made in the Complaint;
- f. Directing Plaintiffs to respond to Dr. Strut's Interrogatories Nos. 10, 11, and 12, and RES's Interrogatories Nos. 14 and 17;
- g. Directing Plaintiffs to produce a full privilege log, subject to the parties' stipulation;
- h. Striking Plaintiffs' objection to Dr. Strut's Interrogatory No. 9 as to "...the extent it suggests that Defendants actually rendered any legitimate medical services to GEICO insureds";
- i. Striking Plaintiffs' objection to Defendants' Document Request No. 14 as to "...the extent that it purports to required GEICO to produce documents other than as they are maintained in the ordinary course of GEICO's business"; and
- j. Directing Plaintiffs to properly substantiate any and all remaining objections in compliance with Rule 34(b)(2)(B) and Rule 34(b)(2)(C).

Dated: Buffalo, New York
November 6, 2020

s/Colin M. Knoer

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